

## CHAPTER 227

AN ACT concerning higher education restructuring, amending P.L.1994, c.48, and amending and supplementing P.L.2012, c.45.

**BE IT ENACTED** *by the Senate and General Assembly of the State of New Jersey:*

1. Section 6 of P.L.1994, c.48 (C.18A:3B-6) is amended to read as follows:

C.18A:3B-6 Powers, duties of governing boards of institutions of higher education.

6. The governing board of each public institution of higher education shall have the following general powers and duties to fulfill its mission and the Statewide goals in cooperation with other institutions and the State coordinating structures:

a. To develop an institutional plan and to determine the programs and degree levels to be offered by the institution consistent with this plan and the institution's programmatic mission;

b. To have authority over all matters concerning the supervision and operations of the institution including fiscal affairs, the employment and compensation of staff not classified under Title 11A of the New Jersey Statutes, and capital improvements in accordance with law;

c. To set tuition and fees; however, prior to the date of the adoption of a tuition or fee schedule or an overall institutional budget, and with reasonable notice thereof, the governing board shall conduct a public hearing at such times and places as will provide those members of the college community who wish to testify with an opportunity to be heard;

d. To establish admission standards and requirements and standards for granting diplomas, certificates and degrees;

e. To recommend for appointment by the Governor, members to the institution's governing board. The recommendation shall be made with regard to the mission of the institution and the diversity of the community to be served;

f. To have final authority to determine controversies and disputes concerning tenure, personnel matters of employees not classified under Title 11A of the New Jersey Statutes, and other issues arising under Title 18A of the New Jersey Statutes involving higher education except as otherwise provided herein. Any matter arising under this subsection may be assigned to an administrative law judge, an independent hearing officer or to a subcommittee of the governing board for hearing and initial decision by the board, except for tenure hearings under N.J.S.18A:6-18. Any hearings conducted pursuant to this section shall conform to the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The final administrative decision of a governing board of a public institution of higher education is appealable to the Superior Court, Appellate Division;

g. To invest and reinvest the funds of the institution; however, institutions which invest the funds of the institution through the Director of the Division of Investment in the Department of the Treasury on or before the effective date of this act shall continue to do so, unless this requirement is waived by the State Treasurer on an annual basis, which waiver shall not be unreasonably withheld;

h. To retain legal counsel of the institution's choosing. State entities may choose representation by the Attorney General; however, as to claims of a tortious nature, the institution shall elect within 75 days of the effective date of this act whether it, and its employees, shall be represented in all such matters by the Attorney General. If the institution elects not to be represented by the Attorney General, it shall be considered and its employees considered employees of a sue and be sued entity for the purposes of the "New

Jersey Tort Claims Act" only. The institution shall be required in that circumstance to provide its employees with defense and indemnification consistent with the terms and conditions of the Tort Claims Act in lieu of the defense and indemnification that such employees would otherwise seek and be entitled to from the Attorney General pursuant to N.J.S.59:10-1 et seq. and P.L.1972, c.48 (C.59:10A-1 et seq.);

i. To be accountable to the public for fulfillment of the institution's mission and Statewide goals and for effective management of the institution;

j. To submit a request for State support to the Division of Budget and Accounting in the Department of the Treasury and to the commission in accordance with the provisions of this act;

k. To have prepared and made available to the public an annual financial statement, and a statement setting forth generally the moneys expended for government relations, public relations and legal costs;

l. To have prepared an annual independent financial audit, which audit and any management letters regarding that audit shall be deemed public documents.

These powers and duties are in addition to and not a limitation of the specific powers and duties provided for the governing board of each public institution under chapter 64, 64A, 64G, 64E, or 64M of Title 18A of the New Jersey Statutes. If the provisions of this section are inconsistent with these specific powers and duties, the specific powers and duties shall govern.

2. Section 41 of P.L.2012, c.45 (C.18A:64M-9) is amended to read as follows:

C.18A:64M-9 Powers, duties of board of trustees.

41. The board of trustees of Rowan University shall have the general supervision over and be vested with the conduct of the university. It shall have the power and duty, subject to the approval of the Rowan University-Rutgers Camden Board of Governors which shall be subject to the limitations set forth in section 34 of P.L.2012, c.45 (C.18A:64M-38), to:

a. Adopt and use a corporate seal;

b. Determine the educational curriculum and program of the university;

c. Determine policies for the organization, administration, and development of the university;

d. Study the educational and financial needs of the university, annually acquaint the Governor and Legislature with the condition of the university, and prepare and submit an annual request for appropriation to the Division of Budget and Accounting in the Department of the Treasury in accordance with law;

e. Disburse all moneys appropriated to the university by the Legislature and all moneys received from tuition, fees, auxiliary services and other sources;

f. Direct and control expenditures and transfers of funds appropriated to the university in accordance with the provisions of the State budget and appropriation acts of the Legislature, and, as to funds received from other sources, direct and control expenditures and transfers in accordance with the terms of any applicable trusts, gifts, bequests, or other special provisions, reporting changes and additions thereto and transfers thereof to the Director of the Division of Budget and Accounting in the Department of the Treasury. All accounts of the university shall be subject to audit by the State at any time;

g. In accordance with the provisions of the State budget and appropriation acts of the Legislature, appoint and fix the compensation and term of office of a president of the

university who shall be the executive officer of the university and an ex officio member of the board of trustees, without vote, and shall serve at the pleasure of the board of trustees;

h. In accordance with the provisions of the State budget and appropriation acts of the Legislature, appoint, upon nomination of the president, such deans and other members of the academic, administrative, and teaching staffs as shall be required and fix their compensation and terms of employment;

i. Consistent with the provisions of its budget, this act and any and all controlling collective bargaining agreements, have the power, upon nomination or recommendation of the president, to appoint, remove, promote and transfer all other officers, agents, or employees which may be required to carry out the provisions of this act and prescribe qualifications for those positions, and assign requisite duties and determine and fix respective compensation for those positions in accordance with duly adopted salary program parameters;

j. Grant diplomas, certificates or degrees;

k. Enter into contracts and agreements with the State or any of its political subdivisions or with the United States, or with any public body, department or other agency of the State or the United States or with any individual, firm or corporation which are deemed necessary or advisable by the board for carrying out the provisions of this act. A contract or agreement pursuant to this subsection may require a municipality to undertake obligations and duties to be performed subsequent to the expiration of the term of office of the elected governing body of such municipality which initially entered into or approved said contract or agreement, and the obligations and duties so incurred by such municipality shall be binding and of full force and effect, notwithstanding that the term of office of the elected governing body of such municipality which initially entered into or approved said contract or agreement, shall have expired;

l. Exercise the right of eminent domain, pursuant to the provisions of the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), to acquire any property or interest therein;

m. Adopt, after consultation with the president and faculty, bylaws and make and promulgate such rules, regulations, and orders, not inconsistent with the provisions of this act as are necessary and proper for the administration and operation of the university and the carrying out of its purposes;

n. Establish fees for room and board sufficient for the operation, maintenance, and rental of student housing and food services facilities;

o. Fix and determine tuition rates and other fees to be paid by students;

p. Accept from any government or governmental department, agency or other public or private body or from any other source grants or contributions of money or property which the board may use for or in aid of any of its purposes;

q. Acquire, by gift, purchase, condemnation or otherwise, own, lease, dispose of, use and operate property, whether real, personal or mixed, or any interest therein, which is necessary or desirable for university purposes;

r. Employ architects to plan buildings; secure bids for the construction of buildings and for the equipment thereof; make contracts for the construction of buildings and for equipment; and supervise the construction of buildings;

s. Manage and maintain, and provide for the payment of all charges on and expenses in respect of, all properties utilized by the university;

t. Borrow money and to secure the same by a mortgage on its property or any part thereof, and to enter into any credit agreement for the needs of the university and projects of

the Rowan University-Rutgers Camden Board of Governors, as deemed requisite by the board, in such amounts and for such time and upon such terms as may be determined by the board, provided that no such borrowing shall be deemed or construed to create or constitute a debt, liability, or a loan or pledge of the credit or be payable out of property or funds, other than moneys appropriated for that purpose, of the State;

u. Authorize any new program, educational department or school consistent with the programmatic mission of the institution or approved by the Secretary of Higher Education;

v. Adopt standing operating rules and procedures for the purchase of all equipment, materials, supplies and services; however, no contract on behalf of the university shall be entered into for the purchase of services, materials, equipment and supplies, for the performance of any work, or for the hiring of equipment or vehicles, where the sum to be expended exceeds \$30,700 or the amount determined by the Governor as provided herein, unless the university shall first publicly advertise for bids and shall award the contract to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the university, price and other factors considered. Such advertising shall not be required in those exceptions created by the board of trustees of the university, which shall be in substance those exceptions contained in sections 4 and 5 of P.L.1954, c.48 (C.52:34-9 and 10) and section 5 of P.L.1986, c.43 (C.18A:64-56) or for the supplying of any product or the rendering of any service by a public utility subject to the jurisdiction of the Board of Public Utilities of this State and tariffs and schedules of the charges made, charged, or exacted by the public utility for any such products to be supplied or services to be rendered are filed with the said board. Commencing July 1, 2013 and every two years thereafter, the Governor, in consultation with the Department of the Treasury, shall adjust the threshold amount set forth in this paragraph in direct proportion to the rise or fall of the consumer price index for all urban consumers in the New York City and the Philadelphia areas as reported by the United States Department of Labor. The Governor shall notify the university of the adjustment. The adjustment shall become effective on July 1 of the year in which it is reported.

This subsection shall not prevent the university from having any work performed by its own employees, nor shall it apply to repairs, or to the furnishing of materials, supplies or labor, or the hiring of equipment or vehicles, when the safety or protection of its or other public property or the public convenience requires or the exigency of the university's service will not admit of such advertisement. In such case, the university shall, by resolution passed by the affirmative vote of its board of trustees, declare the exigency or emergency to exist, and set forth in the resolution the nature and approximate amount to be expended; shall maintain appropriate records as to the reason for such awards; and shall report regularly to its board of trustees on all such purchases, the amounts and the reasons therefor;

w. Invest certain moneys in such obligations, securities and other investments as the board shall deem prudent, consistent with the purposes and provisions of this act and in accordance with State and federal law, as follows:

Investment in not-for-profit corporations or for-profit corporations organized and operated pursuant to the provisions of subsection x. of this section may utilize income realized from the sale or licensing of intellectual property as well as the reinvestment of earnings on intellectual property. Investment in not-for-profit corporations may also utilize income from the operation of faculty practice plans of the university and income from overhead grant fund recovery as permitted by federal law as well as other university funds except those specified in paragraph 5 of subsection x. of this section;

x. (1) Participate as the general partner or as a limited partner, either directly or through a subsidiary corporation created by the university, in limited partnerships, general partnerships, or joint ventures engaged in the development, manufacture, or marketing of products, technology, scientific information or health care services and create or form for-profit or not-for-profit corporations to engage in such activities; provided that any such participation shall be consistent with the mission of the university and the board shall have determined that such participation is prudent;

(2) The decision to participate in any activity described in paragraph (1) of this subsection, including the creation or formation of for-profit or not-for-profit corporations, shall be articulated in the minutes of the board of trustees meeting in which the action was approved;

(3) The provisions of P.L.1971, c.182 (C.52:13D-12 et seq.) shall continue to apply to the university, its employees, and officers;

(4) Nothing herein shall be deemed or construed to create or constitute a debt, liability, or a loan or pledge of the credit or be payable out of property or funds of the State;

(5) Funds directly appropriated to the university from the State or derived from the university's academic programs or derived from payment for coverage provided by the self insurance fund for claims accruing prior to the effective date of this act shall not be utilized by the for-profit or not-for-profit corporations organized and operated pursuant to this subsection in the development, manufacture, or marketing of products, technology or scientific information;

(6) Employees of any joint venture, subsidiary corporation, partnership, or other jural entity entered into or owned wholly or in part by the university shall not be deemed public employees;

(7) A joint venture, subsidiary corporation, partnership, or other jural entity entered into or owned wholly or in part by the university shall not be deemed an instrumentality of the State of New Jersey;

(8) Income realized by the university as a result of participation in the development, manufacture, or marketing of products, technology, or scientific information may be invested or reinvested pursuant to subsection w. of this section or any other provision of this act or State or federal law or retained by the board for use in furtherance of any of the purposes of this act or of other applicable statutes;

(9) The board shall annually report to the State Treasurer on the operation of all joint ventures, subsidiary corporations, partnerships, or such other jural entities entered into or owned wholly or in part by the university;

y. Sue and be sued in its own name;

z. Retain independent counsel including representation by the Attorney General in accordance with subsection h. of section 6 of P.L.1994, c.48 (C.18A:3B-6);

aa. (1) Procure and enter into contracts for any type of insurance and indemnify against loss or damage to property from any cause, including loss of use and occupancy, against death or injury of any person, against employees' liability, against any act of any member, officer, employee or servant of the university, whether part-time, full-time, compensated or non-compensated in the performance of the duties of his office or employment or any other insurable risk. In addition, the university shall carry its own liability insurance or maintain an actuarially sound program of self insurance. Any joint venture, subsidiary corporation, or partnership or such other jural entity entered into or owned wholly or in part by the university shall carry insurance or maintain reserves in such amounts as are determined by an actuary to be sufficient to meet its actual or accrued claims;

(2) Moneys in the fund known as the Self-Insurance Trust Fund administered by the State Treasurer shall continue to be available to the university solely to indemnify and defend claims against the university and its employees, officers and servants but only to the extent that the university has elected on behalf of itself and its employees to obtain representation from the Attorney General pursuant to subsection h. of section 6 of P.L.1994, c.48 (C.18A:3B-6) and such entity or individuals would have been entitled to defense and indemnification pursuant to the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., as a State entity or State employee but for the provision of subsection z. of this section. Any expenditure of such funds shall be made only in accordance with the provisions of the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., including but not limited to the provisions of chapters 10, 10A and 11 of Title 59 of the New Jersey Statutes. Nothing herein shall be construed to authorize the use of the Self-Insurance Trust Fund to indemnify or insure in any way, directly or indirectly the activities of any joint venture, partnership or corporation entered into or created by the university pursuant to subsection x. of this section;

bb. Create auxiliary organizations subject to the provisions of P.L.1982, c.16 (C.18A:64-26 et seq.);

cc. Adopt a code of ethics that complies with the requirements of all statutes applicable to the institution, including, but not limited, to the "Higher Education Restructuring Act of 1994," P.L.1994, c.48 (C.18A:3B-1 et al.), the "New Jersey Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-12 et seq.), regulations of the State Ethics Commission, and any applicable executive orders; and

dd. Establish a procedure for the confidential, anonymous submission of employee concerns regarding alleged wrongdoing at the university.

3. Section 33 of P.L.2012, c.45 (C.18A:64M-37) is amended to read as follows:

C.18A:64M-37 Rowan University – Rutgers Camden Board of Governors.

33. There is established the Rowan University-Rutgers Camden Board of Governors.

a. The board shall be composed of seven members as follows: two members appointed by the board of trustees of Rowan University from among its members; two members appointed by the board of directors of Rutgers University-Camden from among its members; and three members appointed by the Governor with the advice and consent of the Senate. The board shall elect a chairperson from among its membership.

b. The term of office of a member of the board appointed by the board of trustees of Rowan University or the board of directors of Rutgers University-Camden shall be coterminous with his term on that board. The term of office of the Governor's appointees shall be six years. An appointed member may be removed for cause by the board of trustees or the board of directors that appointed the member, or by the Governor in the case of his appointees.

c. Each member shall serve until his successor is appointed and qualified, and vacancies shall be filled in the same manner as the original appointments for the remainder of the unexpired term.

d. Members of the board shall serve without compensation but shall be entitled to be reimbursed for all reasonable and necessary expenses.

e. The board may be staffed by employees of Rowan University and Rutgers University-Camden.

4. Section 34 of P.L.2012, c.45 (C.18A:64M-38) is amended to read as follows:

C.18A:64M-38 Authority, responsibilities of Rowan University – Rutgers Camden Board of Governors.

34. The Rowan University-Rutgers Camden Board of Governors shall have the authority and responsibility to act, in all cases subject to and not inconsistent with the requirements and standards of applicable accreditation authorities, to:

a. approve or disapprove of the establishment or expansion of any schools, programs, or departments after the effective date of this act in the area of the health sciences proposed by either the board of trustees of Rowan University or the board of directors of Rutgers University-Camden;

b. determine policies for the organization, administration, and development of curriculum and programs of Rowan University and Rutgers University-Camden in the area of the health sciences, including dual degree programs and partnerships between the institutions;

c. make recommendations to Rowan University and to Rutgers, The State University for joint faculty appointments to Rowan University and Rutgers University-Camden;

d. provide curricular oversight of joint programs in the area of the health sciences of Rowan University and Rutgers University-Camden; and

e. develop plans for the operation and governance of health science facilities, including plans concerning the development and financing of capital improvements or expansions of health science facilities.

"Health sciences" for purposes of this section shall include, but not be limited to, nursing, medicine, dentistry, pharmacy, pharmacology, biochemistry, biomedicine, genetics, bioengineering, public health, and physician-related studies.

The board shall not take any action to use, transfer, commit, or control the endowment funds or any other funds provided to or accumulated by and under the control of either institution without the respective approval of the Rowan University Board of Trustees or the Rutgers Board of Governors. The board shall have no authority over the tenure or contract rights of faculty at either Rutgers, The State University or Rowan University.

The board shall not take any action that would violate any of the bond covenants of Rutgers, The State University or Rowan University.

Rowan University and Rutgers University-Camden shall each appropriate \$2,500,000 per year to the Rowan University-Rutgers Camden Board of Governors for administration and other necessary expenses.

C.18A:64M-38.1 Additional powers, duties.

5. In addition to the authority and responsibility of the Rowan University-Rutgers Camden Board of Governors pursuant to section 34 of P.L.2012, c.45 (C.18A:64M-38), the board shall have the power and the duty, subject to the limitations set forth in that section including the appropriations limit applicable to Rowan University and Rutgers, The State University set forth therein, and consistent with the provisions of P.L.2012, c.45 (C.18A:64M-1 et al.), to:

a. Enter into contracts and agreements with the State or any of its political subdivisions or with the United States, or with any public body, department, or other agency of the State or the United States or with any individual, firm, or corporation, which are deemed necessary or advisable by the board for carrying out the provisions of P.L.2012, c.45 (C.18A:64M-1 et al.);

b. Exercise the right of eminent domain, pursuant to the provisions of the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), to acquire any property or interest

therein, provided that this right shall be exercised only in a municipality that has been under rehabilitation and economic recovery pursuant to the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.);

c. Accept from any government or governmental department, agency, or other public or private body or from any source grants or contributions of money or property which the board may use for or in aid of any of its purposes; and

d. Acquire, by gift, purchase, condemnation or otherwise, own, lease, dispose of, use and operate property, whether real, personal or mixed, or any interest therein, which is necessary or desirable for its purposes.

C.18A:64M-31.1 Intention of the Legislature to protect Rowan University; reimbursement.

6. In transferring the assets of the University of Medicine and Dentistry of New Jersey to Rowan University, it is the intention of the Legislature to protect Rowan University, and to hold it harmless, subject to future appropriation, for unexpected costs or losses associated with undisclosed liabilities of the University of Medicine and Dentistry of New Jersey that were not reasonably foreseeable or contemplated at the time of the transfers required by this act. Therefore, if Rowan University experiences, during fiscal years 2014 and 2015, costs or losses associated with liabilities of the University of Medicine and Dentistry of New Jersey that were not identified in the certified financial statements of the University of Medicine and Dentistry of New Jersey for the time periods preceding the incurrence of the cost or loss, the State shall reimburse Rowan University for such cost or loss, subject to appropriation by the Legislature.

C.18A:64M-9.1 Public – private partnership agreement.

7. Notwithstanding the provisions of section 43 of P.L.2009, c.90 (C.18A:64-85) to the contrary, Rowan University may enter into a public-private partnership agreement in accordance with the provisions of that section.

8. This act shall take effect immediately.

Approved January 17, 2014.